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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10789/2016**
INDERJEET AHUJA & ORS.

..... Petitioners

Through Mr.D.K.Malhotra and Mr. Rajesh
Kumar Malhotra, Advocates.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through Mr.Ajjay Aroraa, Mr. Kapil Dutta and
Ms. Diksha Lal, Advocates for R-1.
Mr.Mohit Mathur, Sr. Advocate with
Mr.Amish Dabas and Ms.Shreya
S.Dabas, Advocates.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR
ORDER
% **16.11.2016**

C.M.No.42250/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 10789/2016 & C.M. No.42249/2016

There are 5 petitioners before this Court. They are aggrieved by two notices dated 21.10.2016 issued under Section 348 and Section 349 of the Delhi Municipal Corporation Act, 1957.

This Court notes that both the notices were issued on the same day i.e. on 21.10.2016. Submission of the learned counsel for petitioner is that Section 348 of the said Act gives an option to the

petitioner to get his building repaired in the first instance. Both these notices were served upon the petitioner on the same date; the petitioner was also not given an option to get his building repaired. The second notice (under Section 349 of the said Act) in fact directed to vacate the property forthwith or else his building would be demolished. Petitioner is aggrieved by the illegal act of the respondent.

Additional submission of learned counsel for petitioner is that respondent is playing into the hands of the private respondent i.e. respondent no.4.

On advance notice, learned counsel appearing for statutory bodies i.e. respondent nos.1 to 3 under instructions informs this Court that this property is to be re-surveyed. This order was passed by the Executive Engineer on 09.11.2016. His submission is that all occupants of the said building (about 84 persons) shall be notified before any further order is passed. Counsel for respondent no.4 has also put in appearance. He has been supplied with a copy of the petition. He submits that in earlier round of litigation (Writ Petition No.6807/2016) to which recourse has been taken by respondent no.4 an order had been passed on 05.8.2016 which relates to the same property. That order has been perused.

Noting the stand of the statutory body the impugned notices dated 21.10.2016 passed under Section 348 and Section 349 of the DMC Act are set aside. The petitioner shall be heard along with other occupants of the aforementioned building i.e. the property bearing No.2292 to 2336, Peeli Building, Arya Samaj Road, Karol Bagh, New

Delhi before any coercive order is passed against any of the said occupants.

Petition disposed of.

Order dasti.

INDERMEET KAUR, J

NOVEMBER 16, 2016
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